IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO. 88 OF 2005

Mrs. Archana Paras Patil (Jain) ....Applicant

Versus

Paras Madhukar Patil (Jain) ...Respondent

Mr. Sachin Punde for the Applicant.

CORAM: **DR. D.Y. CHANDRACHUD, J.**
DATE: **DECEMBER 21, 2005**.

P.C.

The Petitioner and the Respondent were married on 2nd July, 1998. A male child has been born out of the wedlock on 28th July, 1999. It has been averred that the Petitioner was ill-treated in the matrimonial home and eventually she was constrained to leave her matrimonial home at Kolhapur to live at her parental home at Malegaon in the District of Nashik. The Petitioner has filed an application for maintenance under Section 125 of the Criminal Procedure Code (Enquiry Application No. 116 of 2004) before the Judicial Magistrate, First Class at Malegaon for maintenance for herself and the minor child. An order directing payment of Rs.400/- by way of interim maintenance has been passed. Special Civil Suit No. 41 of 2004 for maintenance under the Hindu Adoptions and Maintenance Act, 1956, has also been instituted and by an order dated 15th October, 2004, the Respondent has been directed to pay maintenance at Rs.3,000/- per month

to the Petitioner. The Respondent has instituted proceedings for divorce before the Civil Judge,Senior Division at Kolhapur (Hindu Marriage Petition No. 233 of 2005) in which the Petitioner has filed her written statement. The Petitioner sought transfer of the proceedings from Kolhapur to Malegaon .

2. It has been averred that the Respondent carries on business of dealing in Computers, Air Conditioners and Photocopying machines and that he has a dealership of reputed Companies. The Petitioner has submitted that the distance between Kolhapur and Malegaon takes approximately 15 hours to traverse; that the Petitioner is subjected to a considerable degree of hardship in defending the proceedings at Kolhapur, particularly in view of the fact that she has a minor son to be looked after.

3. The Respondent has been served after this Court issued noticed on 29th November, 2005. He chose to remain absent. In my view, the averments made in the Application to transfer the proceedings from Kolhapur to Malegaon do establish a case for transfer of the proceedings from the file of Civil Judge, Senior Division, Kolhapur to the file of the Civil Judge, Senior Division at Malegaon.

4. In the circumstances, the Miscellaneous Civil Application is made absolute in terms of prayer clause (A).